IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Lal Chand & Others Vs. State of Rajasthan & Others
(SB Civil Writ Petition No.4017/1999)

SB Civil Writ Petition under Article
226 & 227 of the Constitution of India.

Date of order: November 01, 2006.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA

Mr. S.C.Gupta, for the petitioners.

None for respondents.

BY THE COURT:

Heard learned counsel for the petitioner.

2. Regarding agricultural lands situated in village Gordhanpura, Sub Tehsil Palsana, Tehsil Data Ramgarh District mutations No.80 and 81 were opened on June 27, 1973 in favour of the petitioners. The Additional Collector Sikar vide order dated November 24, 1997 i.e. after about 24 years set aside the order of Tehsildar and made reference to Board of Revenue under section 82 of the Rajasthan Land Revenue Act,1956. The Board of Revenue vide order dated June 3, 1999 accepted the reference and quashed the entries of mutations No.80&81. Against these orders that the petitioners have preferred instant writ petition.

3. Admittedly the respondents initiated proceeding of reference in the year 1997 after unreasonable delay of more than 24 years. There is nothing on record to show that fraud was played in getting the name entered in the record by the petitioners.

4. Division Bench of this court in Anandi Lal Vs. State of Rajasthan (1996 DNJ (Raj.) 100) indicated that to permit exercise of revisional powers under sections 82 and 232 of the Rajasthan Land Revenue Act,1956 (for short `1956 Act') after unreasonable delay would amount putting imprimatur of the courts on the unreasonable and arbitrary exercise of powers. In Mangi Lal Vs. State of Rajasthan (1998(1) WLC (Raj.) 625) it was however observed that where order has been obtained by fraud, the power of reference can be exercised even after the unreasonable delay.

5. In State of Rajasthan Vs. Teja [2005(2) WLC (Raj.) 53) indicated in para 10 thus:-

> "While it is true that the subject transfer is in violation of Section 42-B of the Act of 1955 but that, in itself, is not sufficient. As the respondent has acquired tenancy/ khatedari rights and continued in possession of the land for number of years, his rights cannot be called in question after unreasonable delay in absence of a positive case of fraud on account of collusion between the public officer and the private party. The Collector before invoking the revisional power, has not recorded any reasons to the effect that illegality in transfer as a consequence of fraud between the public officer and the private party has suffered (sic) public loss. In our view, the Board of Revenue has committed error in accepting the reference made by the Collector without satisfying the pre-requisites. Learned Single Judge has rightly set aside the order of the Board of Revenue."

6. Having closely analysed the material on record, I find that it is not a case where obvious manipulation has been perpetrated in the record. The name of petitioner entered in the revenue record was not founded on fraud, therefore the exercise of making reference after unreasonable delay would be unjust and unreasonable. Although sections 82 and 232 of the Rajasthan Land Revenue Act,1956 do not provide for the period of

limitation, but concept of exercise of power in a reasonable manner inheres with it the concept of exercising the same within a reasonable time and if the power is not exercised within reasonable time, the invocation of the power after inordinate delay and the exercise of the same after unreasonable length of time would be illegal and void.

7. For these reasons, I allow the writ petition and set aside the impugned orders dated January 23, 1986 of Additional Collector Tonk, April 4, 1997, July 11, 1997 and July 31, 1998 of the Board. There shall be no order as to costs.

(Shiv Kumar Sharma),J.

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Lal Chand & Others Vs. State of Rajasthan & Others
S.B. Civil Writ Petition No.4017/1999

November 23, 2006.

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA

Mr. S.C.Gupta, for the petitioners.

None for respondents.

Learned counsel for the petitioners has drawn my attention to certain bonafide typing mistakes in the order dated November 1, 2006.

In para No.2 of the order after the word District the word “Sikar” may be inserted. In the same para in place of November the word “December” may be inserted.

In place of the final para of the order dated November 1, 2006 following para may be inserted:-

> “7. For these reasons, I allow the writ petition and set aside the impugned orders dated December 24, 1997 of Additional Collector Sikar and June 3, 1999 of the Board. There shall be no order as to costs.”

The application stands allowed. The order stands corrected accordingly. This order may be appended with the main order dated November 1, 2006.

(Shiv Kumar Sharma)J.

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